

In the United States District Court
for the Southern District of Texas,
Houston Division

Mark Flora,

Plaintiff,

v.

Transocean Drilling (USA),
Inc., *et al*,

Defendants.

Civil Action No:

4:19-cv-02328

Jury Requested

**Defendant Grand Isle Shipyard, LLC's
Reply to Plaintiff's Response to GIS's Objections**

To the Honorable Judge David Hittner:

Defendant Grand Isle Shipyard, LLC ("GIS") files its Reply to Plaintiff's Response to GIS' Objections to Evidence Attached to Plaintiff's Response to Defendant's Motion for Summary Judgment (ECF No. 64). In support of same, GIS would show unto the Honorable Court as follows:

- 1. Plaintiff's bad faith argument that GIS waived its objections during the deposition of its corporate representative is belied by the on-the-record agreement he made through his counsel.**

Plaintiff's Response is signed by Daniel Sheppard, the same attorney who took the deposition of the GIS corporate representative,

Duroc Schexnaydre. During his deposition, Mr. Sheppard agreed on the record that an “objection, form” would be sufficient:

14 MR. DAVIS: Objection, vague, improper

15 hypothetical. You can go ahead and answer, Duroc.

16 MR. MECHE: Objection, form.

17 THE WITNESS: Say the question again.

18 MR. DAVIS: Yeah, just in -- Daniel, just

19 as a housekeeping matter, I know we're in Federal court,

20 which generally requires us to state the basis of the

21 objection when we make it. Do y'all have an ongoing

22 agreement, that “objection, form” is sufficient?

23 MR. SHEPPARD: That's fine by me. I don't

24 care.

25 MR. DAVIS: Okay.¹

After GIS's counsel made the specific objections that Plaintiff's counsel now requires, he then said that an "objection, form" is sufficient. That he did not care. He cannot now cry foul to this Court that he was prejudiced by such an objection and his argument is made in bad faith.

2. Plaintiff's counsel cannot separate argument from admission regarding "pinch points."

Again, Plaintiff's counsel tries to mischaracterize the testimony of Mr. Schexnaydre when he said, "if you would see a picture of a vessel that's loaded, the entire vessel is a pinch point."² This is not an admission that somehow GIS created a pinch point of the entire vessel; Mr. Schexnaydre was pointing out the absurdity of Plaintiff's counsel's suggestion that GIS had a duty to load the boat without creating *any* pinch points, when pinch points are created anytime you arrange cargo on a vessel.

¹ See Exhibit 1, Excerpt of Deposition of Duroc Schexnaydre, at 35:14-25.

² See Exhibit 1 at 43:12-15.

3. Expert Report from John Pierce is hearsay.

Plaintiff acknowledges that the photographs contained in its Response are “demonstrative photos to aid the court.” See ECF No. 64 at 10. Because they are merely demonstrative, the photographs should not be considered in the summary judgment record. Neither should the report from Plaintiff’s expert John Pierce that Plaintiff’s counsel tries to shoehorn into the record. The report is hearsay and should be struck from the summary judgment record, to the extent that Plaintiff’s pleading could be considered a part of it.

4. Prayer

Defendant GIS respectfully requests that the Honorable sustain defendant’s objections to plaintiff’s evidence (as argued in ECF No. 60) and strike the evidence from the record. Defendant also prays for any other relief it is justly entitled to receive.

Respectfully submitted,

Brown Sims,

/s/Michael D. Williams

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Certificate of Service

I hereby certify that on July 15, 2021, I electronically served the foregoing with all parties of record pursuant to the Federal Rules of Civil Procedure.

/s/ Michael D. Williams